APPENDIX A.

BEFORE THE FLORIDA RAILROAD AND PUBLIC UTILITIES COMMISSION.

CITY OF ST. PETERSBURG, FLORIDA, a Municipal Corporation, Petitioner, vs. ATLANTIC COAST LINE RAILROAD COMPANY, a Corporation, Respondent.	**Docket No. 4063-RR Order No. 2199**

Chairman Wilbur C. King, Commissioner Jerry W. Carter, and Commissioner Richard A. Mack each participated in the hearings and disposition of this cause.

Order of the Commission.

This matter came on to be considered by the Commission as the result of a formal petition by the City of St. Petersburg, Florida, a municipal corporation, for relocation of the St. Petersburg freight and passenger depots of the Atlantic Coast Line Railroad Company.

The city's petition was filed with the Commission on April 7, 1954, and in substance alleged that the St. Petersburg passenger station of the Atlantic Coast Line Railroad is old, unsightly, obsolete, poorly arranged and no longer

adequate from the standpoint of the convenience and necessities of the traveling public; that the passenger station situated only one block south of Central Avenue, which is the main thoroughfare of St. Petersburg, has become the source of serious traffic congestion in downtown St. Petersburg; that the congested conditions in the vicinity of the passenger station resulting from its location in the heart of the city's business section, and the inadequate parking facilities provided for those having business with the railroad, have conspired to make the railroad's passenger station grossly inaccessible for the traveling public and others having legitimate business on the station premises; that the frequent movement of trains to and from the passenger station across heavily traveled streets in the main business section of the city causes serious traffic congestion, prevents the free flow of traffic, subjects the public to undue hazards, and constitutes a serious and continuing threat to the public safety and welfare of the city, its inhabitants and visitors by impeding the free and effective movement of fire, police and ambulance traffic; that the railroad's freight station, also in the heart of St. Petersburg's business district, is inadequate in size, location and accessibility and constitutes a menace to the public safety and welfare; that said freight station because of its location and arrangement constantly causes serious traffic congestion on heavily traveled public streets in the vicinity of said station; and that said passenger and freight depots should be relocated to sites not inimical to the public welfare and safety and in keeping with the public convenience and necessity.

Under its rules of practice the Commission served a copy of the city's petition on the respondent railroad and directed it to satisfy the complaint or plead thereto within fifteen days from the date of such notice.

Before the respondent railroad filed its response to the city's petition, the city filed a petition to take deposition by written and oral interrogatories. By this petition the city sought authority to take the deposition of the Atlantic Coast Line Railroad before a notary public in Wilmington, N. C., where the home office of respondent railroad is located. The petition averred that the deposition would be taken for the purpose of eliciting evidence material and relevant to the issues in this proceeding. Ninety-seven written interrogatories were proposed in the petition and authority was sought to propound oral interrogatories in addition thereto.

Subsequent to the filing of the foregoing pleadings the railroad filed a motion to strike an allegation of paragraph 11 of the city's petition for relocation of the depots and also filed its answer to said petition. The City then filed a motion for more definite statement relating to the allegations of the Railroad's answer as to jurisdiction of the Commission and filed a motion to strike portions of the answer.

The Commission served notice on the Railroad of the petition to take deposition and directed it to show cause on June 1, 1954, at the Commission Offices in Tallahassee, Florida, why the Commission should not enter an order authorizing the taking of such deposition. Notice was also served on the parties to this proceeding of hearing on June 1 before the Commission at Tallahassee, Florida on the motions of both parties to strike and the City's motion for more definite statement. The Railroad then filed a motion to quash the notice and order of the Commission on the petition for deposition and the Commission notified the parties that such motion would also be heard on June 1. The railroad then filed a motion for continuance of the June 1 hearing and the Commission notified the parties

that it would on June 1 hear oral argument on the railroad's motion for continuance and all other pending motions then filed or which might be filed prior to the time of hearing. Subsequent to this notice, the Railroad filed a motion to quash and objections to the petition to take deposition by oral and written interrogatories.

After due consideration of the pending pleadings the Commission denied the city's motion for a more definite statement, its motion to strike portions of respondent's answer, and the railroad's motion to strike portions of the city's petition for relocation of respondent's freight and passenger stations. At the same time the Commission designated one of its members to hold a pre-hearing conference in St. Petersburg for the purpose of determining which of the proposed interrogatories should be answered by respondent and directed that said commissioner hold a hearing thereafter in Wilmington, N. C., for the purpose of receiving the railroad's answers to those interrogatories which might be approved by the Commission.

On July 8, 1954, the Commissioner designated for that purpose held the pre-hearing conference as directed for the purpose of determining which of the city's interrogatories should be answered. At said conference the respondent railroad objected to answering any of said interrogatories. Thereupon the petitioner discussed the individual questions by groups. The first group of questions related to the adequacy of the present stations. The second group related to the cost of the present operations of the Railroad Company in comparison to the cost of operation in the event the freight and passenger stations were relocated. The third group of questions related to the location of the present stations as they affect traffic in and about said stations and their effect upon the growth of St.

Petersburg's downtown business district. The last group of questions related to the convenience of the public. After the petitioner had advanced various reasons why the railroad should be required to answer the individual questions in each category, the Respondent raised specific objections to each individual question in each classification.

The parties supported their respective positions by the expert testimony of well-qualified engineers.

After having heard argument concerning the various interrogatories and being fully advised of the vast scope of the various questions involved, it was the opinion of the Commissioner designated to hold said prehearing conference that the interrogatories at that present time were premature and that the City of St. Petersburg should be required first to submit evidence at a public hearing in support of its petition for relocation of the freight and passenger stations of Atlantic Coast Line Railroad Company at St. Petersburg, Florida.

The full commission concurred in the findings and opinion of the Commissioner who held the conference and entered a formal order setting the matter down for a public hearing on the city's petition for relocation of respondent's freight and passenger stations. The public hearing was scheduled to be heard in St. Petersburg on October 5, 1954. When said hearing was convened the commission announced that two primary questions were involved, to wit: (1) Should the present freight and passenger stations of the Atlantic Coast Line Railroad Company at St. Petersburg be relocated and replaced at a new location by new, modern and adequate facilities capable of fully meeting the public convenience and necessity, and (2) Where should such new facilities be located. By Order of the commission the October hearing was limited to the first ques-

tion. At the same time the commission announced that a determination of the second question would be the subject matter of further hearings if the commission should enter an affirmative order concerning the first questions.

Voluminous testimony and exhibits were received at the October hearing from the petitioner. A subsequent hearing was held in December, 1954, at which time the respondent railroad presented its testimony and exhibits in support of its opposition to the city's relocation petition. A third hearing was held in March, 1955, for the purpose of receiving rebuttal evidence from the petitioner. At the conclusion of this hearing the Commission requested the respective parties to file briefs, together with proposed findings of fact and conclusions of law, and announced that it would subsequently set a date for oral argument on the various issues involved.

Before briefs were filed and oral arguments heard the respondent railroad filed a motion to dismiss the proceeding on the ground that it had been rendered moot by the action of the city in adopting an Ordinance requiring the railroad to elevate its tracks from 16th Street North to Bayshore Drive. The city filed an answer to respondent's motion and the commission advised the parties that oral argument would be heard on the motion on June 8, 1955, at which time oral arguments on the merits of the city's relocation petition would likewise be heard. Briefs were filed on June 6 and oral arguments were heard by the full commission on June 8 as scheduled.

After a careful study and consideration of the entire record herein, and based thereon, the commission makes the following findings of fact:

1. In the year A. D. 1887 or 1888, Orange Belt Company constructed a railroad from Sanford, Florida, to St.

Petersburg, Florida, and built a depot on the present site of the existing passenger station, at which time St. Petersburg was a village of about 30 inhabitants. The village grew into a City of 7,186 inhabitants by 1915, when the present passenger depot was constructed.

2. The Atlantic Coast Line Railroad tracks enter the City at 40th Avenue North at approximately 35th Street and run in a Southeasterly direction, crossing Central Avenue between 13th and 14th Streets, proceeds one block, then turns Eastward and continues to Tampa Bay. From the point where it intersects the City limit to Tampa Bay, it crosses practically all of the heavily traveled streets and avenues of the City at grade. After crossing 13th Avenue North to the end of the line it traverses the main business district of St. Petersburg. From 7th Street Eastward to 3rd Street, the railroad tracks are in the center of First Avenue South, thereby creating a divided street for the passage of motor vehicles. From 7th Street Westward to Central Avenue and from 3rd Street Eastward to the Bay, the tracks occupy the entire street and the same is not open to vehicular traffic.

3. Central Avenue is the main arterial highway of the City of St. Petersburg running from Tampa Bay on the East to Boca Ciega Bay on the West. The Atlantic Coast Line Railroad depot is situated almost a block south of Central Avenue between 2nd Street and 3rd Street, both of which are heavily traveled streets of the City. The Railroad tracks are on the South side of the depot. Both 2nd Street and 3rd Street are paved a width of 60 feet. First Alley South is also paved. There is an open space between the South margin of First Alley South and the North wall of the depot with the exception of a masonry island on the West end of this area used for the discharge of passengers from taxicabs and a grassed lawn

surrounded by masonry work on the East end of this area. The entrance to the white waiting room is on the North side of the depot and from the South side of First Alley South to the entrance to the white waiting room is 71 feet 8 inches. First Alley South is 20 feet wide. The block between First Alley South and Central Avenue is designated as Block 32 and is built solid with stores from 2nd Street to 3rd Street, the rear end of which abut on First Alley South. The service entrances of these stores are on First Alley South which is used by commercial vehicles practically all of the time. On the 3rd Street side of the station building spaces are provided for the parking of vehicles along the island. At the West end of the area spaces are marked for the use of taxicabs. Along the North side of the building 17 spaces are provided for the parking of automobiles for the convenience of the public who have business to transact at the railroad station. On the 2nd Street side of the building are 5 or 6 spaces provided for parking automobiles but are used in the main by American Railway Express Company for its trucks. North of the grassed lawn surrounded by masonry work at the East end of the building is situated the office and warehouse of American Railway Express Company. From the North border of this grassed lawn to the South wall of the Railway Company is a distance of 40 feet. Between the grassed lawn and the depot is a driveway 26 feet wide but which is usually blocked with the trucks of the Express Company. The Express Company also has a service station at the East end of the depot. West of this service station is the white waiting room. Immediately West of the white waiting room is the ticket office and station agent's office. West of the ticket office is the colored waiting room. West of the colored waiting room is a covered patio. Immediately West of the patio is the baggage room and parcel check office. There is a covered walk on the South side

of the depot which extends almost but not quite to the railroad tracks. This shelter extends almost the entire distance from 2nd Street to 3rd Street. Under this shelter, in front of the South door to the white waiting room, is a sign directing passengers to board trains East of 2nd Street. The building was erected in 1915. It is far from modern but is large enough in the main to accommodate the normal requirements of the traveling public and others having business at the station, although the waiting rooms are small without sufficient seating capacity for the convenience of the passengers and those who go to the depot to see them aboard and those who go there to meet passengers on incoming trains. The toilet facilities are insufficient and unsanitary.

The baggage room in the station is poorly located and difficult of access. It can be reached by car, truck or taxicab only through an alley 26 feet wide which runs Eastward from 3rd Street. Automobiles are usually parked adjacent to this narrow passage which makes an entrance to the baggage room by automobiles difficult.

4. To reach the door of the white waiting room by motor car it is necessary to enter the areaway between First Alley South and the depot building either from 2nd Street or 3rd Street and this areaway is invariably congested with motor vehicles, particularly during the arrival and departure of trains. Seldom, if ever, is there one of the parking spaces, provided for the public, vacant for the use of passengers and those who go to the depot to transact business. It is almost impossible to find a vacant parking space within two or three blocks of the passenger depot and large numbers of people who go to the depot to board trains are compelled to double park in either 2nd or 3rd Street because of the congested condition of First Alley South and the small areaway North of the station, unload

their baggage and take their motor vehicle two or three blocks to park the same.

5. The railroad yards of the Atlantic Coast Line are situated North of 13th Avenue North and West of 19th Street. All trains are made up for departure in the yards and are backed from the yards to the station across the mostly heavily traveled streets of the City and through the business district. During the winter months a train called the Havana Special arrives in St. Petersburg about 7:50 A. M., unloads at the depot and backs out to the yards. About 9:00 A. M. a train designated as the Champion, consisting of 16 to 18 units, backs from the yards to the depot to be loaded for departure at about 10:30 A. M. This train invariably is placed on the first track South of the depot, that is next to the Station. While this train is waiting for departure time invariably another train of 8 to 10 units, called the Southland, arrives on the tracks next to the train made up for departure, leaving very narrow space between the two trains for the passengers to detrain and for the unloading of baggage. There is no platform for the convenience of the passengers getting off between these two trains but merely an asphalt like substance on the ground. Nor is there any canopy or shelter provided for the convenience of passengers in inclement weather. Passengers alighting from the Southland cannot go directly to the depot, but are compelled to go either West to 3rd Street and around the locomotive or Eastward to 2nd Street and around the broken end of the train waiting for departure, in order to reach the depot. Not infrequently the passengers are compelled to debouch into the street subjecting them to injury from traveling vehicles.

Passengers leaving on outgoing trains, in obedience to the sign directing them to go East of 2nd Street, cross 2nd Street and proceed toward 1st Street and sometimes

cross 1st Street and go almost to Shore Drive, depending upon the particular pullman car to which the passenger is assigned. East of 2nd Street there is no platform provided for the convenience of passengers but only a narrow asphalt like pavement laid flush with the ground which extends only part of the way. There is no shelter or canopy of any kind East of 2nd Street for the protection of the passengers in inclement weather.

After the Southland arrives and the passengers detrain, the Champion departs, traversing the business district and crossing the most heavily traveled streets in the City, bypassing the railroad yards on its way to Jacksonville and points North. When the Southland unloads its baggage, mail and express cars, it backs out to the yards over the same route. About 3:30 in the afternoon the Havana Special backs from the yards over the same route for loading for departure at 7:30 P. M. and soon thereafter the Southland also backs from the yards to the station to be loaded for departure at 6:00 P. M. While the Southland is standing at the station, waiting for the time of departure, invariably the West Coast Champion arrives compelling the passengers to detrain between the Southland and the Champion. After the Champion unloads its mail, baggage, and express cars it backs to the yards and then the Southland departs at approximately 6:00 P. M. About 7:00 P. M. the Havana Special leaves over the same route.

6. All these trains, whether backing to the station for departure or arriving block 3rd Street, 2nd Street, 1st Street and most of the time Shore Drive. Incoming trains usually clear 3rd Street, which they block only long enough for the passage of the train, but by that time the locomotive is down between 1st and 2nd Streets, or between 1st Street and Shore Drive, depending upon

the length of the train. In the winter season, trains with 15 or 16 cars entirely block 2nd Street and 1st Street until the passengers are unloaded from the cars, which takes generally from 6 to 10 minutes. During that time the train crew detaches the mail and express cars, pulls them down across 1st Street and back into the stub and track which is on the North side of the main tracks between 1st and 2nd Streets. This switching movement also blocks 1st Street for a period of time. The engine then goes back and attaches to the remaining cars parked East of 1st Street, and then returns and connects up with the cars still standing in front of the station. Usually there is a dining car which occupies the second from the end position in the train near 3rd Street. The entire train is then pulled back down Eastward blocking 1st Street again. The dining car is brought back Westward and attached to the Southland which is ready for departure. Then the whole train is pulled down again blocking 2nd Street for 6 or 7 minutes and then carried to the yard. The whole operation occupies 45 or 60 minutes or more, during which time one or more of the streets mentioned are blocked by train movements. Located as the station is it is impossible to switch the incoming or outgoing trains without blocking either Shore Drive, 1st, 2nd, or 3rd Streets. In effect the whole area of St. Petersburg from 3rd Street Eastward is used by the Atlantic Coast Line Railroad Company as a train switching yard. On occasion, cars are left blocking the streets for as much as 96 minutes. The blocking occurs because it is impossible to clear the engine on 3rd Street and leave 2nd Street unblocked and sometimes 1st Street. Because 1st Avenue South is not open East of 3rd Street and 2nd and 3rd Streets are blocked by the movement of the trains the vehicular traffic cuts through First Alley South and the area between the margin of First Alley South

and the depot, thereby causing terrific traffic congestion in both the alley and in front of the depot; and thus making the depot inaccessible to those desiring to go there to transact business with the railroad company or those who go there to depart on trains or to meet passengers arriving on trains.

This blocking of the streets by the switching movements of the train interferes greatly with the flow of vehicular traffic during the busy time of each day.

7. At the time the depot was constructed in 1915 at its present location the City had a population of only 7,186 and there were few automobiles in use. St. Petersburg has grown rapidly and now has a population of approximately 125,000. The increased use of motor vehicles by the local population together with that of the visitors from other states has created a serious traffic problem in the vicinity of the depot and all streets crossed by the rails.

In 1915 when the station was constructed the total number of winter visitors approximated 23,000. In 1954 there were approximately 534,000 winter visitors. In 1915 approximately 17,000 of them came by train. In 1954 approximately 84,000 of them came by train.

8. The main fire station of the City is located on 3rd Street South one block South of the depot, and it is a frequent occurrence that fire alarms are turned in when the trains block 3rd Street, 2nd Street, 1st Street and Shore Drive, compelling the fire equipment to detour in order to answer the alarm. It frequently happens that the blocking of these streets backs the traffic up beyond Central Avenue to the North and 2nd Avenue to the South and across the intersections thus blocking the East and West flow of traffic on Central Avenue at the intersections.

9. The station located as it is, under the conditions which exist, is insufficient to meet the requirements of the traveling public and does not provide the necessities or convenience which the traveling public requires.

10. In 1904 the City of St. Petersburg vacated that portion of 8th Street South extending from the South margin of First Alley South to the railroad tracks of the Atlantic Coast Line Railroad Company, and conveyed the same to said railroad company for freight depot purposes. The railroad built a freight depot on First Alley South and across the vacated portion of 8th Street just one-half block South of Central Avenue. At that time the City of St. Petersburg had a population under 2,500. As the result of the construction of said depot 8th Street South comes to a dead end at the South margin of First Alley South. There is no access to the freight station from the South. It can be reached only by driving off Central Avenue down 8th Street South or by traversing an alley one-half block South of and parallel to Central Avenue. The entrance to the alley is from 7th Street. It is narrow and has commercial cars and trucks parked along the same. 7th Street and Central Avenue are both heavily traveled and it is difficult to turn into the alley to gain access to the freight station. Exit from the alley is possible only by making a complete U turn at the station and proceeding North on 8th Street to Central Avenue, or by going Westward down the alley into 9th Street. Traffic on both Central Avenue and 9th Street is so heavy it is difficult and often unsafe to leave the alley and merge with the traffic on either street and is oft-times dangerous.

The switches connecting the main line to the tracks serving this station are on 7th Street South on the East

end, and 9th Street South on the West end, so that every train movement has to block either 9th or 7th Street with the possible exception of an engine pulling one car.

As a result of its inaccessibility and the switching movements of the freight trains, the freight depot cannot and does not provide the convenience and necessity required by the city of 125,000 people, which St. Petersburg has grown. The City is still growing rapidly and the condition which exists now will grow tremendously worse as the City continues to grow.

11. An average of 147,845 motor vehicles cross the tracks of the Atlantic Coast Line Railroad Company from and including 13th Avenue North Southeastward and Eastward to the Bay daily. There is an average of 387 daily train movements over these same crossings, causing 4,470 motor vehicles to be delayed at said crossings daily. The total time occupied by trains at these crossings daily are 7 hours and 44 minutes and each crossing, on the average, is occupied by trains 27 minutes and 18 seconds daily. The traffic signals in St. Petersburg are so regulated as to provide the maximum continuous flow of traffic. When the crossings are blocked by trains the flow of traffic is halted causing it to back up several blocks and thereby blocking the traffic on the cross streets.

12. The locations of the freight and passenger depots together with the location of the tracks serving the same greatly retard the expansion of the business district of St. Petersburg and vitally and adversely depreciates the values of property in the proximity of the railroad station and the railroad tracks.

Based upon the record herein, and the laws of Florida applicable thereto, the commission has arrived at and announces the following conclusions of law:

1st. The Atlantic Coast Line Railroad passenger depot is grossly inadequate and incapable of providing the public convenience and necessity required by the traveling public.

2nd. The Atlantic Coast Line Railroad freight depot is grossly inadequate and fails to provide the public convenience and necessity required by those who ship and receive freight through said depot.

3rd. That both the passenger and freight depots should be relocated so as to better serve the inhabitants of the City of St. Petersburg to which said railroad company is tributary.

4th. The motion to dismiss filed by respondent and based upon the City Ordinance requiring elevation of the railroad's tracks should be denied.

Now, Therefore, in Consideration Thereof, it is Ordered by The Florida Railroad and Public Utilities Commission that the respondent, Atlantic Coast Line Railroad Company, be and it is hereby directed to remove its St. Petersburg, Florida, freight and passenger depots from their present locations in said city and to construct and operate new, modern and adequate freight and passenger depots, capable of fully meeting the convenience and necessities of the public, at such location or locations in said city consistent with the public interest, safety and welfare, as may be determined and directed by this Commission pursuant to a further hearing to be held herein at a time and place subsequently to be announced by the Commission.

By Order of the Commission at Tallahassee, Florida, this 30th day of June, A. D. 1955.

/s/ Bolling C. Stanly,
Executive Secretary.

(Seal)

LWP

APPENDIX B.

IN THE SUPREME COURT OF FLORIDA.

ATLANTIC COAST LINE RAILROAD COMPANY, a Corporation, Petitioner,

vs.

WILBUR C. KING, Chairman, and JERRY W. CARTER and ALAN S. BOYD, Members of Florida Railroad and Public Utilities Commission, and CITY OF ST. PETERSBURG, FLORIDA, a Municipal Corporation, Respondents.

Motion to Quash Petition for Certiorari and to Dismiss Proceedings.

Comes now City of St. Petersburg, Florida, a municipal corporation, one of the respondents in the above stated cause, by its undersigned solicitors, and moves the Court to quash the petition for Writ of Certiorari filed by petitioner, Atlantic Coast Line Railroad Company, a corporation, and to dismiss the proceedings filed in this Honorable Court, upon the following grounds:

1. Because the petition for Writ of Certiorari was prematurely filed.

2. Because the order entered by the Florida Railroad & Public Utilities Commission on June 30, 1955, which petitioner seeks to have this Court review, does not possess

that element of finality which is a prerequisite to judicial review.

s/ Erle B. Askew,
Hall Building
St. Petersburg, Florida,

s/ S. E. Simmons
Florida National Bank Building,
St. Petersburg, Florida,

s/ Carroll R. Runyon,
Florida Theatre Building,
St. Petersburg, Florida,

Solicitors for Respondent City of St. Petersburg, Florida.

We, the undersigned counsel for petitioner in the above stated cause, do acknowledge that we have this day received a copy of the Motion to Quash the Petition for Certiorari and to dismiss the proceedings in the Supreme Court of Florida, this ..... day of ....., 1955.

.....,

For Mann, Harrison, Stone, Roney & Mann,
Attorneys for Atlantic Coast Line Railroad Company.

APPENDIX C.

IN THE SUPREME COURT OF FLORIDA.

JUNE TERM, A. D. 1955.

TUESDAY, OCTOBER 11, 1955.

ATLANTIC COAST LINE RAILROAD COMPANY, a Corporation, Petitioner,

vs.

WILBUR C. KING, Chairman, and JERRY W. CARTER, and ALAN S. BOYD, Members of Florida Railroad and Public Utilities Commission, and CITY OF ST. PETERSBURG, FLORIDA, a Municipal Corporation, Respondents.

The City of St. Petersburg and Wilbur C. King, Chairman, and Jerry W. Carter and Alan S. Boyd, Members of the Florida Railroad and Public Utilities Commission, Respondents, have filed motions to quash the Petition for Certiorari filed in this cause on August 26th, 1955, and to dismiss the proceedings and upon consideration thereof, it is ordered that said motions be and the same are hereby granted and said Petition for Writ of Certiorari is hereby quashed and proceedings dismissed.

A True Copy.

Test:

Guyte P. McCord,
Clerk Supreme Court.
(Seal)

APPENDIX D.

IN THE SUPREME COURT OF FLORIDA.

JUNE TERM, A. D. 1955.

FRIDAY, NOVEMBER 18, 1955.

ATLANTIC COAST LINE RAILROAD COMPANY, a Corporation, Petitioner,

vs.

WILBUR C. KING, Chairman, and JERRY W. CARTER and ALAN S. BOYD, Members, of Florida Railroad and Public Utilities Commission, and CITY OF ST. PETERSBURG, FLORIDA, a Municipal Corporation, Respondents.

Petitioner has filed a petition for rehearing in this cause and upon consideration thereof, it is ordered that said petition be and the same is hereby denied.

The Petitioner in said petition prayed in the alternative staying further proceedings in the cause by the Respondents so that Petitioner may apply for and obtain, if it can, a Writ of Certiorari from the Supreme Court of the United States and upon consideration thereof, it is ordered that further proceedings in this cause be and are hereby stayed for ninety days from this date to enable the Petitioner to have a reasonable time in which to apply for and to obtain, if it can, a Writ of Certiorari to the Supreme Court of the United States. This order is subject to cancellation at any time if the Appellant fails to prosecute certiorari proceedings with reasonable dispatch.

A true Copy.

Test:

/s/ Guyte P. McCord,
Clerk Supreme Court.

(Seal)

APPENDIX E.

Material Excerpts from Public Hearings.

R. 114-115:

Q. I mean to say, if you, as an engineer, were requested to make a location for a passenger station in St. Petersburg or any other City, is the question of highway interference one that you would consider important in reaching a determination?

Mr. Harrison: May it please the Commission, we are not confronted here with the question of establishing a new station at a new location. We are talking about the present station and the question of inadequacy of that station and not about highway interference.

Mr. Simmons: May it please the Commission, that seems rank quibbling. The witness is trying to deal with the question of whether these stations are properly located and he will do so.

Chairman Carter: The objection will be sustained.

Mr. Simmons: Did I understand you to say that the objection is sustained?

Chairman Carter: Yes.

* * * * *

R. 128-131:

Q. Mr. Kennedy, has your opinion been influenced to any extent by the fact that St. Petersburg is at the end of the line?

A. Yes, it has because one of the elements which necessarily tends to keep a railroad in the location it is in is the fact that it is going on to serve some other locality.

If this Atlantic Coast Line track were going through St. Petersburg on to Miami or Sarasota or some other point beyond that would have to be very heavily weighed and you would have to consider the question of what other location you could make and whether or not the railroad could reasonably afford to do it and whether anyone but the City could be expected to make the expenditure for them. Here it makes no difference whether the termination is at Bayshore Drive or 13th Avenue North or somewhere else. The change could be made with a minimum expenditure as far as operation is concerned I am sure it would be a more economical operation if it did terminate out at 13th Avenue North or some such location. It would eliminate a good deal of switching crew time and switching time and I think it would be to the benefit of the railroad as well as the public interest.

Mr. Harrison: I move to strike the last portion of the witness' statement that in any respect refers to the matter of economy of operation or to advantages, possible advantages to the railroad on the ground that there is no evi dence before the Commission upon which an expert opinion such as he seeks to give could be based.

Mr. Simmons: Of course, one reason why the evidence is not here is because the Railroad resisted every attempt we made to get such information.

Mr. Harrison: The fact remains that there is no evidence here regardless of the manner in which it is absent.

By Mr. Simmons:

Q. Mr. Kennedy, to go further along on this, to throw further light on this, would these observations which you make with respect to economy of operation be based upon a wild guess or upon your experience in similar situations elsewhere?

Mr. Harrison: Pardon me, but my motion is still to strike the last portion of the answer and I would like a ruling at this time.

Mr. Simmons: I think if the Commission lets the witness answer this question it will make the motion immaterial. It is given based on experience he gained elsewhere.

Mr. Harrison: My motion was made. I wish to have a ruling on it.

Mr. Petteway: Read Mr. Kennedy's statement.

(The statement was read by the Reporter.)

Mr. Petteway: It seems to me that it is not related to the adequacy of the present station so much as it refers to the economical operation of the new station. I think the objection is well founded.

Chairman Carter: Did you ever operate a railroad under such circumstances in which those conditions did exist?

The Witness: No, sir.

Chairman Carter: The objection will be sustained.

* * * * *

R. 171-173:

Q. Do you know any locality south of 13th Street and east of 16th Street that could be used as a depot site that would eliminate the conditions to which you have testified?

Mr. Harrison: Objected to on the ground that it has heretofore been determined that moving to a new site is not an issue at this time.

Chairman Carter: Would you read that question?

(The question was read by the Reporter.)

Mr. Askew: We have set up in our petition certain conditions that exist over these particular streets.

Chairman Carter: You asked him if he knows of any site in his opinion.

Mr. Askew: As a traffic expert and from his observation, does he know of any site that would do away with the hazardous conditions that he has testified to.

Mr. Howell: I submit, may it please the Chairman, that that point can be reached without violation of the previous ruling of your honor to the effect that we are not concerned with the possibility of a new location here. It is obvious and I am sure the Lieutenant would agree, that if the Railroad were not there, there would not be any need for any flash signal. You need not tie it to any particular point.

Mr. Askew: If the intention is to admit the hazardous condition, I won't pursue it any further.

Mr. Petteway: It seems to me that in the first place it is a rather broad question. There are hundreds of places that would not create the hazard and the objection is perfectly consistent with the one your Honor sustained yesterday to the same question.

Mr. Askew: May I be heard on that? I was going by the order entered by the Commission. It says, "After having heard argument concerning the various interrogatories and being fully advised of the vast scope of the various questions involved, it is the opinion of the Commissioner designated to hold the pre-hearing conference that the interrogatories at the present time are premature and that the Petitioner herein, the City of St. Petersburg, should be required first to submit evidence at a public hearing in support of its petition for relocation of the freight and passenger stations of the Atlantic Coast Line Railroad Company at St. Petersburg, Florida."

Our petition particularly refers to the hazardous conditions that are created at these street crossings. If the Commission is of the opinion that that question is premature, I will not insist on it at this time.

Chairman Carter: The objection will be sustained.

* * * * *

R. 509-510:

By Chairman Carter:

Q. From your experience, I understand you have conveyed to the Commission the idea that the convenience of the public would make it necessary for the passenger and freight station to be removed from its present location. Am I correct?

A. I think that would be the general opinion I would have. It would be of unquestionable benefit to the whole economy of the City.

Q. Have you given any thought to where the convenience of the public would be best served for this station if this is not the best place?

A. That is hard to answer.

Mr. Simmons: May it please the Commission, it is embarrassing to object to a question from the Commission but this has been divided into two different categories. First is whether the station is adequate or inadequate and assuming we get a yes answer to that, where should it be.

Chairman Carter: Your objection is well taken and will be sustained.

* * * * *

R. 937-938:

Q. You prefer this site over an outlying site where the Railroad itself would be relieved of traffic conditions?

Mr. Howell: May it please the Commission, I object to the question on the ground that it includes a hypothesis not involved in this matter. It is not involved in this case.

There has been no suggestion about another site and under the order issued in this case that point is irrelevant.

Mr. Simmons: I just asked him if he would prefer this location over an outlying location.

Mr. Petteway: He asked if he would rebuild at the present location and he said he would and it seems to me this is arguing that question with him.

Chairman Carter: The objection will be sustained.

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FEB 29 1956
HAROLD B. WILLEY, Cl

IN THE

Supreme Court of the United States

OCTOBER TERM, 1955

No. 669.

ATLANTIC COAST LINE RAILROAD COMPANY, a corporation,

Petitioner

v.

WILBUR C. KING, *et al.*, as members of Florida Railroad and Public Utilities Commission, and CITY OF ST. PETERSBURG, FLORIDA, a municipal corporation,

Respondents

PETITIONER'S REPLY TO RESPONDENTS' BRIEF.

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